

THE HOMESTEAD  
ACT OF 1862

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Executive Routine  
Homestead Act  
of 1862  
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# Abraham Lincoln's Executive Routine

## The Homestead Act of 1862

Excerpts from newspapers and other sources

From the files of the  
Lincoln Financial Foundation Collection

Homestead

W. L. Gibson  
DEPEW, OK., INDEPENDENT.  
AUG. 28, 1930

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**First Homestead Entry**

The original homestead law was approved May 20, 1862, by President Abraham Lincoln, to become effective January 1, 1863. On the latter date the first homestead entry was made at the Brownville, Neb., land office by Daniel Freeman for 160 acres. The application was numbered one. Final proof on the entry was offered January 20, 1868, and final certificate issued on the same day. The entry was patented September 1, 1869.

FREE HOMESTEADS  
for  
ALL AMERICANS

*The Homestead Act of 1862*

by Paul W. Gates



CIVIL WAR CENTENNIAL COMMISSION  
WASHINGTON 25, D.C.  
1962

# FREE HOMESTEADS for ALL AMERICANS

BY PAUL W. GATES

"To throw open all the lands of the republic free of charge, and bid each citizen to help himself to a quarter section, will open a new era in the history of Labor. It will greatly diminish if not entirely arrest that pernicious monopoly of the Public Lands which compels the actual settler to pay from \$5 to \$30 an acre for his unimproved quarter section, on penalty of being driven into the pathless wilderness many weary miles from mills, stores, churches, schools, doctors, and so on. The \$1.25 charged per acre by the government has cost the actual settler an average of \$5 per acre—oftener more than less. But when every quarter section belonging to the nation shall be open to appropriation and settlement without charge, it will be an obviously losing business to buy up thousands of acres to hold for a rise, and very few will attempt it."

So declared Horace Greeley in the New York *Tribune* of May 14, 1862, hailing the end of the old system (as he hoped) under which the best public lands had fallen into the clutches of speculators and monopolists. Six days later, on May 20, President Lincoln signed the Homestead Act. It was one of the truly epochal laws of American history. On the four cornerstones of free lands, free immigration, free enterprise, and free political institutions rose the nation, between the Civil War and the First World War, to giant strength and global leadership.

In its early years of independence, the United States acquired by cessions from individual States a public domain in the West covering many millions of acres. This was vastly increased by the purchase of Louisiana, the acquisition of Florida, and the march of the nation to the Pacific. These great

open spaces, frequented only by a few hundred thousand Indians, constituted a national treasure which was pledged for the payment of the public debt, and was therefore to be used as a source of revenue for the Government. To obtain income, surveys of the more eastern portion were undertaken and the land was offered to buyers at \$2 an acre. Wild land that was uncleared, unfenced, and lacking in accommodations was scarcely worth such a price, and sales were few even when credit was extended. The high minimum price retarded sales, slowed down the growth of the West, and made it difficult for the pioneer to get started in the process of farm-making.

Such Western statesmen as Andrew Jackson and Thomas Hart Benton agreed with Thomas Jefferson that it would be better to lower the price of the public lands and reserve them for actual settlers. Speculators had come into the possession of large acreages which they withheld from settlers, did not improve or develop, and kept for higher bids. Their holdings became known as speculators' deserts. In these circumstances Western pressure brought about a reduction of the standard price of Government land from \$2 to \$1.25, and even less in certain instances. The size of tracts for sale was gradually reduced, reaching forty acres in 1832. In addition, steps were taken to assure settlers, who moved upon public land before they could purchase it, a settlement or preemption right that gave them priority of purchase at the minimum price when the land was put up for sale. Still the situation was unfavorable for would-be farmers who had only a few dollars in their pockets.

The public land, except for very small tracts that had been cleared by Indians, was wild, unimproved, covered with dense timber in some parts, and wholly treeless in other parts. Pioneers had to spend years of backbreaking toil to clear the forests on their small tracts in Ohio or Missouri, to build fences, dwellings, barns, and cribs, drain the wet areas, acquire cattle, sheep, hogs, and chickens, and to pay off mortgages incurred in getting plans under way. In the wooded areas the pioneers had available

much of the material for buildings, fences, and fuel; yet on the treeless prairies and plains, lumber had to be transported great distances at heavy expense. Furthermore, heavy steel plows hauled by a half dozen yoke of oxen were necessary to break the tough prairie sod. Other expensive machines were required to drill, cultivate, reap, and thresh the grain best adapted to the region. As pioneers moved out of the wooded areas upon the open prairies and plains, they found that farm-making costs increased so substantially that from \$1,500 to \$2,000 was required for a successful start in Illinois or Kansas.

Many farmers moving to the West in search of cheap Government lands brought little money with them. To gain a foothold and a little capital, they had to work on construction jobs, to hire out as farm laborers for a number of years, or to borrow. But if they waited a number of years, others would select the best land and leave only refuse tracts. Few pioneers had the patience to wait. They turned to moneylenders and usually found ready supplies of cash available to them—but only at appallingly high interest rates ranging from 10 percent to as much as 40, 60, and even 120 percent a year. Only under the most favorable conditions, with good crops and high prices, could they carry such charges. Many failed when depressions struck in 1819, 1837, 1857, and 1873.

Land reformers came to believe that the Government policy of selling public lands was wrong. The hardships of pioneering in areas remote from schools, churches, markets, and transportation facilities were such that only the boldest and most adaptable could succeed. Few others were daring enough to try. It was these pioneers who were making new commonwealths, strengthening America, and making the republic great. Why, asked the reformers, should the pioneers be penalized by charging them for land in its wild, unimproved state? George Henry Evans, editor of the *Working Man's Advocate* and a staunch supporter of reforms affecting the laboring classes, wished the public lands made free to all who would go West and create farms.

Coupled with the agitation for free land was a demand that the public domain should no longer be open to speculative purchasing by capitalists, and that free grants to homesteaders should be inalienable. Free land, Evans argued, would drain off the surplus working population from the East and thereby assure a better bargaining power for those who remained. Evans' views were sufficiently radical to repel some, but he won notable converts.

Horace Greeley, editor of the influential *New York Tribune*, took up the cause of land reform partly out of sympathy for unemployed working-men, and partly because he was convinced that pioneers in the West were being victimized by land speculators, note shavers, land agents, moneylenders, and the Government's pricing policy. His trips through the West gave him an intimate knowledge of pioneering conditions, the difficulties and costs of farm-making the extortionate charges made on farm mortgages, the high failures in periods of low prices and economic distress, foreclosures, and the emergence of a tenant class.

Anticipating Henry George, Greeley argued that unimproved land on the frontier had no value until farms were created, towns and cities with their facilities for the marketing of agricultural goods established, and highways and railroads provided. Since much of this was done with the labor or funds of pioneers, Greeley felt that they were being doubly taxed by the Government. He roundly condemned capitalist speculators for the paralyzing effect their greed had upon areas in which their holdings were concentrated. At the same time he sharply criticized the small farmer who tried to engross more land than he could expect to develop in a lifetime. Greeley strongly supported in the *Tribune* Evans' demand for ending speculative purchases of public lands, and for reserving them only for homesteaders on an inalienable basis.

Evans, Greeley and other reformers stirred up a keen popular interest in free homesteads. Petitions rained upon Congress and kept the issue before it from 1845 to 1862. At times the land question became as important and as productive of dissension

as were slavery and the territorial problem. Such political leaders as Andrew Johnson, Stephen A. Douglas, George W. Julian, and Galusha A. Grow took up the issue, introduced bills to provide for free grants, and worked hard to get their measures adopted. In the late 1850's, Greeley's *Tribune* contributed mightily to the growing sentiment for the measure. Its almost daily accounts of Western conditions had a telling effect upon the thousands of readers the paper reached. Republican leaders, anxious to find popular issues to add to their opposition to slavery in the territories, took up the cry for free land.

The House of Representatives, being more representative of the rapidly expanding West than the Senate, marshalled its supporters of homestead legislation under the effective leadership of Grow and Julian. It passed homestead bills in 1852, 1854, and 1859 and twice in 1860, while the Senate, dominated by the planter South, resisted. Finally, in 1860, the House and Senate agreed upon an emasculated measure, only to see their work destroyed by James Buchanan's veto. This veto was the last in a series of actions by Buchanan that angered the West. He had ordered public lands to be put upon the market when money was scarce and interest rates were high; he had located land offices in pro-slavery towns, and he had used all the power of the administration in an effort to make Kansas a slave State. The States and Territories most affected by Buchanan's policies—Kansas, Nebraska, Minnesota, and Wisconsin—became among the staunchest in the Republican column, and for years gave large Republican majorities in presidential elections.

With the South out of the Union by 1862, Congress adopted, and Abraham Lincoln signed, a Homestead Law that was much superior to the measure approved by both chambers in 1860. However, it lacked some of the important safeguards favored by the radical land reformers. It provided that any person, the head of a family or 21 years of age, whether a citizen or an intended citizen, could take up a quarter section of the public domain. If he lived upon and improved it for a

period of 5 years, he could then take title upon the payment of small fees. To the land reformers the deficiencies of the Act were almost as important as its benefits. Huge areas of public lands were closed to homesteading at the time of adoption—or later by the refusal of Congress to halt all land sales except those to actual settlers. Other areas were allotted to railroads to aid in their construction, and to States to assist them in establishing schools and universities. These and other previously established policies withdrew land sufficient to make 2,000,000 homesteads from the reach of those seeking the Government's bounty. Furthermore, the antialienation feature advocated by land reformers was excluded from the Act, thereby permitting abuses of the gravest character in public land administration in subsequent years.

Homesteading began on January 1, 1863, after detailed instructions were given the local officers to enable them to meet all contingencies, after numerous forms for filing and recording entries were drafted, and after announcements calling attention to the free lands were published in many newspapers. In the first 6 months 8,223 original entries for an average of 126 acres were filed in 42 offices scattered from Chillicothe in Ohio to Olympia in Washington Territory. This was small business compared with the great boom in land sales of the previous decade. In 1864 and 1865 the homesteading activity fell by nearly a half. The reason, of course, lay in the Civil War with its demands upon manpower, its provision of full employment at high wages, and its restrictions upon immigration. Furthermore, no homestead rights were established in the South and few in Missouri, racked as it was by strife between Confederate bushwackers and Unionist jayhawkers from Kansas.

Victory at Appomattox and the early discharge of the troops stimulated a great outpouring of people from the older sections into the new West. Minnesota, Wisconsin, and Michigan led in homestead filings until 1866, when Missouri took second place. In 1870 Kansas, Arkansas, and Nebraska ranked first, second, and third. By the latter year

homesteading was flourishing in the old public land States of the South, and in the Great Plains from Kansas to Dakota Territory, while a smaller number of filings were being made in Idaho, Montana, and Washington. Spectacular indeed was the increase in filings from 15,355 in 1866 to 39,768 in 1871. Then followed a decline coinciding with the depression after the Panic of 1873. A new start began in 1878; by 1883 the number of new filings had reached 56,565. The West was growing with amazing rapidity, fed by thousands of families from the older States, the Midwest, and Europe. The land boom and the westward thrust of settlers produced a bitter conflict between the homesteaders and cattlemen. Night-raiding and murder were prevalent, and the struggle brought about the end of the range-cattle industry. It also increased tension between Indians and whites that flamed into plains warfare, led to the removal of the tribes from the better portions of their reservations, and opened their tracts to settlers. The spectacular rushes of "boomers" and "sooners" into Oklahoma, the Rosebud reservation in South Dakota, and the opening of other desirable areas gave the West more prospective settlers than the land could accommodate. As a result, lotteries had to be devised to determine the lucky winners.

The highest mark in homestead filings came in 1910, when 98,598 people made their original entries. Long before that year land-seekers had overrun the West, and new commonwealths had emerged. In 1911, the last of the territories of the continental United States, exclusive of Alaska, had been admitted to statehood.

Was this great outpouring of land-seekers healthy for the country, and was its purpose farm-making, as the Homestead Law contemplated, or was a considerable part of the rush primarily concerned with speculation in land?

Most land legislation of the nineteenth century was loosely if not carelessly drafted. Interested men soon found loopholes which permitted evasions of the principle of the law and violations of its fundamental objectives. This was true of the Home-

stead Act. The evidence is clear that many thousands of homesteads that were formally patented were designed not for the first occupant, but for great cattle ranchers, lumber companies, or speculative capitalists who had hired agents to make the entries, and who had bribed the Federal land officials.

The commutation clause of the Homestead Law was responsible for much improper accumulation of land in a few hands. It permitted homesteaders—at the conclusion of 6 months' residence on the land—to commute their entry to a preemption claim. This would confer a title and enable them to sell it to others. Homesteaders using this road to ownership were hired by moneyed interests to make their entries, commute them, and transfer the ownership. All this was done for considerations ranging from a trifle to a thousand dollars or more. Abuse of the law was made easier by the niggardly refusal of Congress to appropriate sufficient funds to enable the General Land Office to give detailed attention to entries. The wide prevalence of fraud (for commutation was a fraud on the Government when the land was intended for a third party) was distressing for it put land into the hands of greedy traders instead of true homesteaders.

Though the 160-acre homestead unit was well designed for farming in the humid regions east of the Missouri River, and for some distance into Oklahoma, Kansas, Nebraska, and North and South Dakota, it proved inadequate for farming as the frontier receded farther west. However, homesteaders could acquire a preemption claim of 160 acres for an additional \$200; and after 1873, under the Timber Culture Act, they could gain a third quarter section by setting out trees on 40 acres. The system, made more flexible by these provisions, thus adapted to the dryer portion of the Great Plains. Misuse of these acts, however, led to their repeal in 1891. Yet settlers could legitimately add to their holdings by purchases from the huge land grants made to railroads or States, and by consolidating homesteads when it appeared that the 160-acre farms were too small for efficient operation.

The greatest success of homesteaders in establishing owner-operated farms was in the more humid areas in the years before 1880. In Minnesota, central Kansas, and Nebraska, and a little later in Dakota Territory, a series of rushes for choice land were stimulated by stories of high wheat yields and rising farm values. Here, too, some commutation of claims and sales to cattlemen occurred, along with a good many relinquishments, or sales of settlement rights by one homesteader to another. But a greater proportion of the homesteaders were legitimate farmmakers, anxious to bring their land into cultivation and to establish their families permanently on it.

After 1880, commutation and the sale of relinquishments became increasingly common. Through such means the pioneer could get together a little capital that might finally, after two or three attempts, enable him to gain title to a claim. In the rush to locate tracts homesteaders frequently made selections that soon proved ill-adapted to farming and subsequently had to be abandoned. Relinquishments, abandonments, and commutations prevented slightly more than half of all the original homestead filings from reaching patent as free land, though some of the homesteaders gained title through commutation.

Congress experimented with larger homestead units in the twentieth century, for the old 160-acre farm was not at all adapted to dry farming conditions in Wyoming, Idaho, or Arizona. The first step was taken in 1904, when 640-acre homesteads were sanctioned in the sandhills of northwestern Nebraska. Five years later, 320-acre homesteads were authorized in the Interior Basin, and in 1916 640-acre grazing homesteads were permitted on lands classified as suited only for grazing. Such generosity in acres if not in value accelerated the search for desirable homestead land of any kind. Swiftly thereafter the public domain was whittled away until the once vast area of 1,800 million acres had been reduced to 165 million acres (exclusive of lands in Alaska). The remaining fragment was arid desert, high mountains, or grazing lands whose

grass cover was seriously depleted. To protect these overgrazed lands from further destruction, Congress adopted in 1934 the Taylor Grazing Act which, with later amendments, withdrew all further public land that had any potential value from entry, and placed it in organized "management districts."

The great days of homesteading, as told in the classic stories of Hamlin Garland, Ole Rolvaag, Marie Sandoz and Hal Borland, were over. The sweep of homesteaders had searched out and made into farms or ranches all land suitable for agriculture, as well as much that was not. Nearly half of those who tried to create farms on Uncle Sam's vast domain failed. Yet the other half succeeded and made the United States the greatest surplus food producing nation in the world. The rush of homesteaders (and of miners who also were attracted to the West by the Government's liberal policy toward mineral lands) had filled out the older public land States and created thirteen new ones. Most important of all, however, was the fact that the Homestead Act and its successors had permitted nearly 1,500,000 families to acquire the dignity of independence in farm ownership.

#### *Additional Readings on Free Homesteads*

Roy M. Robbins, *Our Landed Heritage. The Public Domain, 1776-1936.* Princeton, N.J., 1942.

Herbert S. Schell, *History of South Dakota.* Lincoln, Nebr., 1961.

Fred A. Shannon, *The Farmer's Last Frontier.* New York, 1945.

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IN THE NATION | Tom Wicker

# It's Still One Nation

**A**s debate rises over President Reagan's drastic budget-reduction proposals, Lincoln's Birthday seems an appropriate time to call attention to the incipient threat of sectionalism and divisiveness in the Union he did so much to preserve.

Lincoln was always a nationalist. In his early career he supported federally financed roads and canals to advance the opening of the West. As President, he signed the Homestead Act and the land-grant college act, both instrumental in developing a national economy and a continental nation. He supported, although he did not live to see, the federally assisted building of a railroad linking East and West for the benefit of both.

That kind of national effort is belittled and possibly threatened, these days, by a line of thinking that goes something like this: Why should one section of the nation be concerned about some other section? Why should one group of taxpayers care what happens to another?

Thus David Stockman on the farm credit crisis:

"For the life of me, I cannot figure out why the taxpayers of this country have the responsibility to go in and refinance bad debt that was willingly incurred by consenting adults. ... Why is it any different from small businesses — hundreds of thousands of them go out of business every year. ... Farming is a business, it doesn't need subsidies any more than any other business."

And William F. Buckley Jr., in a column on the Reagan budget cuts, including elimination of urban mass transit aid:

"It defies even the sophist's imagination why grape pickers in California should sweat coppers into a fund designed to ease the problems of someone seeking passage from Manhattan to Brooklyn."

Mr. Buckley must think that urban mass transit exists only in New York city. In fact, Federal transit subsidies go mostly to small- and medium-sized cities many of which will have to eliminate transit altogether if the aid program is killed. Federal subsidy pays half the cost of transit in Gary, Ind., and Rochester, Minn., for example, and more than that in Greensboro, N.C., and Gretna, La.; but Federal aid pays only for about 7 percent of transit operations in the New York metropolitan area.

Thus, that grape picker in California is contributing his coppers to a national fund that meets a national need — just as New Yorkers and Pennsylvanians and Georgians always have

contributed tax dollars to the needs of the West, like Grand Coulee Dam. It's one country, isn't it? Didn't the federally financed reclamation of California's Central Valley help feed, and reduce food costs for, the whole nation?

As for the Stockman diatribe against farmers, there are a number of reasons why farming is not a business just like any other. Farmers, most elementally, are much at the mercy of the weather — even fine weather, which can depress prices by producing bumper crops. The stunning ability of American agriculture to produce — an ability fostered not least by federally aided research — ironically is another problem. Chronic overproduction means chronic surpluses and low prices — even as production costs rise.

## Farmer credit and mass transit open rifts

Farmers are more directly damaged by government policy and world events than most businessmen. Embargoes on soybeans and grain have drastically restricted necessary export markets. The worldwide recession that followed the 70's boom has further limited those markets — particularly in developing countries that had been the fastest-growing U.S. market.

In the 70's, Federal encouragement of agricultural exports lured farmers into overexpansion; borrowing to buy more high-priced land and equipment, often at the urging of banks and government agencies, those "consenting adults" Mr. Stockman ridiculed incurred big debts and high interest rates. Declining markets, rising foreign competition, world recession and the hardening dollar then destroyed farm prosperity, causing farm land values — the security for farm debt — to fall disastrously.

Does that justify a national effort to help farmers through a crisis not of their own making? It certainly gives David Stockman no cause to tell hard-pressed Americans to sink or swim on their own. □





